

# Notice of Allowability

Application No.

09/993,340

Examiner

Samson B. Lemma

Applicant(s)

ENGLAND ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed on 12/14/2007.
2. ☒ The allowed claim(s) is/are 80,82-88 and 90-95.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Ref -  
Paper No./Mail Date 12/06 and 02/15/07.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

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### ***DETAILED ACTION***

1. The request filed December 14, 2006 for a request for continued examination (RCE) under 37 CFR 1.114 based on patent application 09/993,340 is acceptable and an RCE has been established.
2. **Claims 1-79** have been previously canceled.
3. **As the result of Examiner's amendment,**  
**Claims 81, 89 and 96-100** are canceled.  
**Claims 80, 82, 88 and 90** are amended.  
And **Claims 80, 82-88 and 90-95** remains pending.

### ***EXAMINER'S AMENDMENT***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with **Lewis C. Lee** Reg. No 34,656 on 02/15/2007.

The application has been amended as follows: In the claims

**80. (Amended)** A method comprising:

receiving a request to transfer application data from a source computing device to a destination computing device; and

determining if the requested application data is unconditionally non-migrateable to another computing device, the determination based at least in part on a non-

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migrateable encryption key stored on the source computing device, and not transferring the requested application data in response to that determination; and  
determining if the requested application data is user-migrateable and in response thereto:

receiving input identifying a user-defined passphrase;

identifying an encryption key previously used to encrypt the application data,

encrypting the encryption key based at least in part on the user-defined passphrase, and

transferring the encrypted encryption key to be copied to the destination computing device.

**81. (Canceled)**

**82. (Currently amended)** A method as recited in claim [[81]] 80, and further comprising transferring the encrypted application data to the destination computing device.

**88. (Currently amended)** One or more computer readable media having stored thereon a plurality of instructions that, when executed by one or more processors of a source computing device, causes the one or more processors to:

receive a request to transfer application data from a source computing device to a destination computing device; and

determine if the requested application data is unconditionally non-migrateable to another computing device, the determination based at least in part on a non-migrateable encryption key stored on the source computing device, and not transfer the requested application data in response to that determination;  
receive input identifying a user-defined passphrase;

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identify an encryption key previously used to encrypt the application data,  
encrypt the encryption key based at least in part on the user-defined passphrase, and  
transfer the encrypted encryption key to be copied to the destination computing device.

**89. (Canceled)**

**90. (Currently amended)** One or more computer readable media as recited in claim ~~[[89]]~~ **88**, wherein the plurality of instructions further causes the one or more processors to transfer the encrypted application data to the destination computing device.

**96-100 (Canceled)**

### ***Allowable Subject Matter***

4. On December 8, 2006 Applicant's initiated interview was conducted over the phone. Applicant's representative and Examiner spent discussing the disposition of this case. During that discussion, Applicant's representative and the Examiner discussed the cited art and some proposed new claims that could possibly overcome the grounds of rejection set forth in the previous office action. Furthermore, the Examiner promised that he would further review, search and consider the proposed amendment (RCE) and contact the applicant's representative before writing the next office action.
5. Subsequently, on February 15, 2007, after reviewing the proposed amendment and updating the search, the Examiner called applicant's representative and suggested on how the claims should be further amended to overcome the ground of the rejection. During the telephone interview Examiner and Applicant agreed that if dependent claims 81 and 89 are canceled and incorporated in the corresponding independent **claims 80 and 88, and if the**

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**language of the independent claims further changed as suggested by the examiner, the independent claims 80 and 88 would overcome the ground of rejections set forth in the previous office action. Accordingly, applicants not only agreed to change the some language/limitation of the independent claims 80 and 88 but also included the limitation of the corresponding dependent claims 81 and 89 into the respective claims. Other claims found not to contain allowable subject matter also agreed to be canceled by the two parties.**

Therefore,

6. **Claims 80, 82-88 and 90-95** are allowed.
7. The following is an examiner's statement of reasons for allowance:
8. Referring to **the independent claims 80 and 88**, Peterka, the reference on the record **discloses most of the limitations recited in former independent claims. For instance, Peterka, before the claims were amended**, discloses a method comprising:

**Receiving a request to transfer application data from a source computing device to a destination computing device;**[figure 19, paragraph 0066, paragraph 0136]

**Checking whether the application data can be transferred to the destination computing device[0066] (caching server examines the secure object of the client) and if so then**

**Checking whether the application data can be transferred under the control of user** [paragraph 0136, "checking could be performed by the client] **or a third party.** [paragraph 0136, checking could be either performed by content providers/ caching server] **wherein, checking whether the application data can be transferred comprises checking a type of the application data,** [paragraph 0137,"analyzes the client's request for the program content] **the type**

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**of application data being one of non-migrateable** [ paragraph 0137, content data which the clients are not authorized are non-migrateable,because such contents can not be accessed/transferred/moved/retrieved by the clients] **user-migrateable [paragraph 0136, checking by the client itself] and third party-migrateable.**[paragraph 0136, checking could be either performed by content providers/ caching server]

**Receiving input from the appropriate one of the user or third party to control transferring of the application data to the destination computing device [paragraph 0136]**

However as the result of the amendment made to independent **claims 80 and 88** and a careful consideration of a persuasive argument presented by applicant regarding some of the limitation recited in the independent claims, for instance the interpretation given to the term, **“unconditionally non-migrateable to another computing device”** it is been found that such limitation with the combination with the other dependent claims are not explicitly suggested by the reference on the record. Furthermore, as suggested by the Examiner, dependent claims **81 and 89** have been canceled and incorporated into the **independent claims 80 and 88 respectively.**

**Therefore, Peterka** for instance, does not disclose or suggest the following underlined and bolded function limitation, “determine if the requested **application data is unconditionally non-migrateable to another computing device, the determination based at least in part on a non-migrateable encryption key stored on the source computing device, and not transfer the requested application data in response to that determination; receive input identifying a user-defined passphrase; identify an encryption key previously used to encrypt the application data,**

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**encrypt the encryption key based at least in part on the user-defined passphrase, and transfer the encrypted encryption key to be copied to the destination computing device."**

None of the prior art of record taken singularly or in combination teaches or suggests a method, comprising steps/all the limitations recited in respective **independent claims 80 and 88** in combination with functional limitation recited above.

For the reasons provided above, the amended independent claims **80 and 88** are allowed.

9. **The dependent claims which are dependent on the independent claims 80 and 88 respectively** being further limiting to the independent claims, definite and enabled by the specification are also allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submission should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samson B Lemma whose telephone number is 571-272-3806. The examiner can normally be reached on Monday-Friday (8:00 am --4: 30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BARRON JR GILBERTO can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**SAMSON LEMMA**

*S.L.*  
**02/15/2007**

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